

**From:** Szelag, Matthew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F1E48230D96943F8ACB72810E32CE8D6-SZELAG, MATTHEW]  
**Sent:** 2/19/2016 12:25:14 AM  
**To:** Fleisig, Erica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=57317ce4c3234afe86380beab9c70bd9-EFleisig]; Fidis, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e76bf6d0e88745d69528ddbf60346461-Fidis, Alexander]; Berol, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a227f36ca9ee4eeb98a95cb22058de43-DBerol]  
**CC:** Schroer, Lee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=573fc5bb4942495d9fc3cd9438634244-LSCHROER]; Buffo, Corey [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d5112a95233948d18e8eff97d1d9c7f0-Buffo, Corey]; Chung, Angela [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b3e49fcb1ad46f1bdbe92ebb4936350-Chung, Angela]  
**Subject:** RE: follow up letter to NWEA petition re WA WQS  
**Attachments:** NWEA petition WA toxics AC\_mjs.docx

Hi David,

Thanks for taking the time to summarize the series of petitions for everyone. Ultimately, I think we'll need management to decide on the approach we would want to take on a potential response (adding Angela) and I'm happy to set up a conversation if we want to talk about the pros and cons you've described. As Erica stated, we spent some time writing up a draft response to the petition (attached) which is now a bit outdated with the latest follow up letter from NWEA. However, you'll see the response was very general and definitely didn't get into detail on the information provided in the petitions.

I've answered some of your questions in red below.

## Attorney Client / Deliberative Process / Ex. 5

- In their August 31, 2015 follow-up letter, they have three main arguments:
  - The Oregon and Idaho BiOps called jeopardy on arsenic, copper, selenium, cyanide, and mercury and show that Washington needs to revise their criteria for these pollutants:

## Attorney Client / Deliberative Process / Ex. 5

## Attorney Client / Deliberative Process / Ex. 5

- The Orca Recovery Plans show that Washington needs tougher WQS:

## Attorney Client / Deliberative Process / Ex. 5

- The Services' criticism of the Industrial Stormwater General Permit shows that Washington needs tougher WQS, for copper in particular.

## Attorney Client / Deliberative Process / Ex. 5

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**From:** Fleisig, Erica

**Sent:** Thursday, February 18, 2016 3:05 PM

**To:** Fidis, Alexander <Fidis.Alexander@epa.gov>; Berol, David <Berol.David@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>

**Cc:** Schroer, Lee <schroer.lee@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

**Subject:** RE: follow up letter to NWEA petition re WA WQS

I think Matt and Angela already worked on a response and the ball is in my court to review, I just haven't gotten to it. Matt, let me know if you think you'd change anything based on David's email, and I'll try to review tomorrow. Thanks!

**From:** Fidis, Alexander

**Sent:** Thursday, February 18, 2016 5:41 PM

**To:** Berol, David <Berol.David@epa.gov>; Szelag, Matthew <Szelag.Matthew@epa.gov>

**Cc:** Schroer, Lee <schroer.lee@epa.gov>; Fleisig, Erica <Fleisig.Erica@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

**Subject:** RE: follow up letter to NWEA petition re WA WQS

## Attorney Client / Deliberative Process / Ex. 5

**From:** Berol, David

**Sent:** Thursday, February 18, 2016 1:08 PM

**To:** Szelag, Matthew <[Szelag.Matthew@epa.gov](mailto:Szelag.Matthew@epa.gov)>; Fidis, Alexander <[Fidis.Alexander@epa.gov](mailto:Fidis.Alexander@epa.gov)>

**Cc:** Schroer, Lee <[schroer.lee@epa.gov](mailto:schroer.lee@epa.gov)>; Fleisig, Erica <[Fleisig.Erica@epa.gov](mailto:Fleisig.Erica@epa.gov)>; Buffo, Corey <[Buffo.Corey@epa.gov](mailto:Buffo.Corey@epa.gov)>

**Subject:** RE: follow up letter to NWEA petition re WA WQS

*Attorney-Client Privileged; Deliberative*

**Matt and Alex –**

## **Attorney Client / Deliberative Process / Ex. 5**

- The Oregon and Idaho BiOps called jeopardy on arsenic, copper, selenium, cyanide, and mercury and show that Washington needs to revise their criteria for these pollutants:

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### **Attorney Client / Deliberative Process / Ex. 5**

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- **Attorney Client / Deliberative Process / Ex. 5**

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*David Berol*

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202-564-6873  
[berol.david@epa.gov](mailto:berol.david@epa.gov)

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**From:** Szelag, Matthew  
**Sent:** Friday, February 12, 2016 12:26 PM  
**To:** Fidis, Alexander <[Fidis.Alexander@epa.gov](mailto:Fidis.Alexander@epa.gov)>; Berol, David <[Berol.David@epa.gov](mailto:Berol.David@epa.gov)>  
**Subject:** Fw: follow up letter to NWEA petition re WA WQS

Hi Alex and David,  
Attached is a second follow up letter we received from NWEA yesterday regarding WA's aquatic life toxics criteria. I think it is something we should be aware of if we begin discussions with NWEA.

Thanks,  
Matt

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**From:** Opalski, Dan  
**Sent:** Thursday, February 11, 2016 12:29 PM  
**To:** Chung, Angela; Szelag, Matthew  
**Subject:** Fwd: follow up letter to NWEA petition re WA WQS

Sent from my iPhone

Begin forwarded message:

**From:** "McLerran, Dennis" <[mclerran.dennis@epa.gov](mailto:mclerran.dennis@epa.gov)>  
**Date:** February 11, 2016 at 12:07:35 PM PST  
**To:** "Opalski, Dan" <[Opalski.Dan@epa.gov](mailto:Opalski.Dan@epa.gov)>, "Psyk, Christine" <[Psyk.Christine@epa.gov](mailto:Psyk.Christine@epa.gov)>  
**Subject:** Fwd: follow up letter to NWEA petition re WA WQS

FYI

Sent from my EPA iPhone

Begin forwarded message:

**From:** "Nina Bell" <[nbell@advocates-nwea.org](mailto:nbell@advocates-nwea.org)>  
**To:** "McLerran, Dennis" <[mclerran.dennis@epa.gov](mailto:mclerran.dennis@epa.gov)>, "Opalski, Dan" <[Opalski.Dan@epa.gov](mailto:Opalski.Dan@epa.gov)>  
**Subject:** follow up letter to NWEA petition re WA WQS

*Nina*

Nina Bell, J.D., Executive Director  
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